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EXAMINER
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/422,387  
Filing Date: October 21, 1999  
Appellant(s): ZILBERSTEIN ET AL.

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Richard J. Katz (Registration No.47,698)

For Appellant

This is in response to the appeal brief filed 1/30/2006 appealing from the Office action mailed on 6/13/2005.

## **EXAMINER'S ANSWER**

### **(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

### **(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

### **(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

### **(4) Status of Amendments After Final**

No amendment after final has been filed.

### **(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

### **(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,381,635	HOYER et al	4-2002
6,578,078	SMITH et al	06-2003

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 7-11, 14, 15 and 20-26 are rejected under 35 U. S. C 103(a). This rejection is set forth in the prior Office Action (mailed on 6/13/2005).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

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commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 7-11, 14, 15 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyer et al. (hereafter Hoyer), U.S. Pat. No.6,381,635 in view of Smith et al. (hereafter Smith), U.S. pat. No.6,578,078.

As to claim 7, Hoyer discloses a method for providing usage information of a first web site designated by a user (210 fig.3) (a system for screening Internet usage), the method comprising:

receiving, from the user (210 fig.3), a designation of the first web site as a monitored website (viewing the performance of monitored web sties, see col.10 lines 44-65), wherein the monitored website is any web site on a communication network (see figs. 3, 4, abstract, col.8 line 52 to col.9 line 33 and col.10 lines 45-65).

monitoring usage of the monitored website (performance monitoring) and transmitting data representative of the usage (performance data measurements) to the user by way of a monitor window (GUI 500 of fig.5 to be viewed by an user) to the user (210 fig.3) (see col.10 line 45 to col.11 line 51).

Hoyer does not specifically disclose transferring data to user when user connected to other web sites. However, Smith in the same usage monitoring environment discloses transferring data to user when user connected to other web sites (when user to connect to a web server requesting for a resource, the server looks up

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the location in the table and forward a copy of a resource to the client (see Smith's col.11 line 13 line 13 to col.12 line 35 and col.12 lines 36-67). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Smith's teachings into the computer system of Hoyer to process data information in the internet because it would have enabled users to easily retrieve web pages and resource information from web servers at a desired location in a communications network and therefore improved web site performance (see Smith's col.11 lines 31-63).

As to claims 8 and 9, Hoyer discloses displaying to the user the usage information in a graphical format and in a text format (documents providing to user are written in HTML, see col.6 lines 20-45 and col.7 lines 22-65).

As to claims 10 and 11, Hoyer discloses the usage information is displayed automatically to the user and displayed only upon a command generated by the user (users clicks buttons to get access to usage information, see fig.7, col.18 lines 17-40).

As to claim 14, Hoyer discloses a computer-readable medium encoded with processing instructions for implementing a method for providing usage information of a first web site (monitored web site) designated by a user (210 fig.3) (a system for screening Internet usage), the method comprising:

receiving, from the user, a designation of the first web page as a monitored website (monitored web site) viewing the performance of monitored web sites, see col.10 lines 44-65) wherein the monitored website is any web site on a communication network (see figs. 3, 4, abstract, col.8 line 52 to col.9 line 33 and col.10 lines 45-65).

monitoring usage of the monitored website and transmitting data representative of the usage to the user by way of a monitor window (GUI 500 of fig.5 to be viewed by an user) to the user (210 fig.3) (see col.10 line 45 to col.11 line 51).

Hoyer does not specifically disclose transferring data to user when user connected to other web sites. However, Smith in the same usage monitoring environment discloses transferring data to user when user connected to other web sites (when user to connect to a web server requesting for a resource, the server looks up the location in the table and forward a copy of a resource to the user (see col.11 line 13 line 13 to col.12 line 35 and col.12 lines 36-67). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Smith's teachings into the computer system of Hoyer to process data information in the internet because it would have enabled users to easily retrieve web pages and resource information from web servers at a desired location in a communications network and therefore improved web site performance (see Smith's col.11 lines 31-63).

As to claim 15, Hoyer discloses an apparatus for providing usage information of a first web site (monitored web site) designated by a user (210 fig.3) (a system for screening Internet usage):

a processor and a memory storing instruction for controlling the processor, the processor operative with the processing instructions to:

receive, from the user (210 fig.3), a designation of the first web page as a monitored website (monitored web site) viewing the performance of monitored web sties (monitored web sites), wherein the monitored website is any web site on a communication network (see figs. 3, 4, abstract, col.8 line 52 to col.9 line 33 and col.10 lines 45-65).

monitoring usage of the monitored website and transmitting data representative of the usage to the user by way of a monitor window (GUI 500 of fig.5 to be viewed by an user) to the user (210 fig.3) (see col.10 line 45 to col.11 line 51).

Hoyer does not specifically disclose transferring data to user when user connected to other web sites. However, Smith in the same usage monitoring environment discloses transferring data to user when user connected to other web sites (i.e., when user to connect to a web server requesting for a resource, the server looks up the location in the table and forward a copy of a resource to the user, see col.11 line 13 line 13 to col.12 line 35 and col.12 lines 36-67). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Smith's teachings into the computer system of Hoyer to process data information in the internet because it would have enabled users to easily retrieve web pages and resource information from web servers at a desired location in a communications network and therefore improved web site performance (see Smith's col.11 lines 31-63).



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As to claim 20, Hoyer discloses an indication of a most-popular next-visited web site for the plurality of users, an indication of web sites visited by the plurality of users prior to visiting the first web site and an indication of when and for how long the plurality of users visited the first web site (using server history and cluster history, see fig.4, col.7 lines 9-65 and col.10 line 45 to col.11 line 62).

As to claim 21, Hoyer discloses a method for providing usage information of a first web site designated by a first user, the method comprising:

receiving, from the first user (210 fig.3), a designation of the first web site as a monitored website (monitored web site), wherein the monitored website is any web site on a communication network see figs. 3, 4, abstract, col.8 line 52 to col.9 line 33 and col.10 lines 45-65).

monitoring at least one other user's usage of the monitored website and transmitting data representative (user's usage information) of the at least one other user's usage to the first user by way of a monitor window (GUI 500 of fig.5 to be viewed by an user) to the user (210 fig.3) (see col.10 line 45 to col.11 line 51).

Hoyer does not specifically disclose transferring data to a user when user connected to other web sites. However, Smith in the same usage monitoring environment discloses transferring data to user when user connected to other web sites (when users to connect to a web server requesting for a resource, the server looks up the location in the table and forward a copy of a resource to the users, see col.11 line 13 line 13 to col.12 line 35 and col.12 lines 36-67). It would have been obvious to one

of the ordinary skill in the art at the time the invention was made to incorporate Smith's teachings into the computer system of Hoyer to process data information in the internet because it would have enabled users to easily retrieve web pages and resource information from web servers at a desired location in a communications network and therefore improved web site performance (see Smith's col.11 lines 31-63).

As to claims 22 and 23, Hoyer discloses displaying to the user the usage information in a graphical format and in a text format (documents providing to user are written in HTML, see col.6 lines 20-45 and col.7 lines 22-65).

As to claims 24 and 25, Hoyer discloses the usage information is displayed automatically to the user and displayed only upon a command generated by the user (users clicks buttons to get access to usage information, see fig.7, col.18 lines 17-40).

As to claim 26, Hoyer discloses an indication of a most-popular next-visited web site for the plurality of users, an indication of web sites visited by the plurality of users prior to visiting the first web site and an indication of when and for how long the plurality of users visited the first web site (using server history and cluster history to control web site measurements, see fig.4, col.7 lines 9-65 and col.10 line 45 to col.11 line 62).

**(10) Response to Argument**

Appellant has chosen to group the claims into one group (claims 7-11, 14, 15 and 20-26).

- As to Grounds of Rejection no.1: Appellant asserts that the combination of Hoyer and Smith reference does not disclose nor suggests “transmitting usage data representative to the user while connected to any other website by a way of monitor window” and does not result in the invention of the present claims.

*Examiner respectfully disagrees. The combination of Hoyer and Smith does disclose the applicant claimed invention as “transmitting usage data representative to the user while connected to any other website by a way of monitor window”. For example, Hoyer discloses a method for providing usage information of a first web site designated by a user implementing a user 210 fig.3 to monitor Internet usage for a plurality of web sites, see figs. 3, 4, abstract, col.8 line 52 to col.9 line 33 and col.10 lines 45-65) including the step of transmitting data representative of the usage (using performance data measurements for calculating capacity measurements for a set of web servers) to the user by way of a monitor window (GUI 500 of fig.5 to be viewed by an user) to the user (offering several views of the performance of the monitored web site and displaying a cluster history view to clients, see col.10 line 45 to col.11 line 51). In the cluster selection (fig.4), it allows users to monitor the performance measurements/usage of a particular web site (www.url01.ncr.com) in a plurality of web*

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sites ([www.url00.ncr.com](http://www.url00.ncr.com)) ([www.url02.ncr.com](http://www.url02.ncr.com)) ([www.url03.ncr.com](http://www.url03.ncr.com)) (see fig.4, col.10 line 44 to col.11 line 39).

Hoyer does not specifically disclose transferring data to a user when user connected to other web sites. However, Smith in the same usage monitoring environment discloses transferring data to user when user connected to other web sites (when users to connect to a web server requesting for a resource, the server looks up the location in the table and forward a copy of a resource to the users (see col.11 line 13 line 13 to col.12 line 67). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Smith's teachings into the computer system of Hoyer to process data information in the internet because it would have enabled users to easily retrieve web pages and resource information from web servers at a desired location in a communications network and therefore improved web site performance (see Smith's col.11 lines 31-63). Therefore, Examiner respectfully maintain that the he combination of Hoyer and Smith does disclose the applicant claimed invention as "transmitting usage data representative to the user while connected to any other website by a way of monitor window".

- As to Grounds of Rejection no.2: Appellant asserts that there is no suggestion to combine the references of Hoyer and Smith since both Hoyer and Smith are in different network environment.

*Examiner respectfully points out that both references point to the same network environment. The Hoyer reference discloses a computer system for monitoring and displaying multiple measurements of a web site (see abstract). The Smith reference points to a method for tracking user's favorite sites and document stored in an internet browser in a web server communications (see abstract and col.11 lines 14-63). Both Hoyer and Smith references also point to a system and method for tracking user movements at a web site, therefore, both Hoyer and Smith references are in the same network environment. In addition, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to incorporate Smith's teachings into the computer system of Hoyer to process data information in the internet because it would have enabled users to easily retrieve web pages and resource information from web servers at a desired location in a communications network.*

*Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 7, 14, 15 and 21. Claims 8—11,*

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*20 and 22-26 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the Final Office Action [mailed on 6/13/2005].*

*Accordingly, claims 7-11, 14, 15 and 20-26 are respectfully rejected.*

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Khanh Dinh  
Primary Examiner  
Art Unit 2151

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Conferees:

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